

No 26

Great Brit. - George III

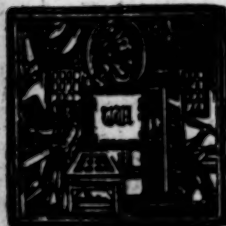
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C. 26

An ACT for dividing and inclosing a certain Moor, or Common, called Middlewood Moor, or Ushaw Moor, within the Manor of Lanchester, in the County of Durham.



PREAS there is, within the Manor of *Lanchester*, in the County of *Durham*, a Moor, or Common, commonly called, or known, by the Name of *Middlewood Moor*, or *Ushaw Moor*, containing, by Estimation, Six Hundred Acres, and upwards; which said Moor, or Common, doth lie, one Part

Preamble.

Middlewood, or Ushaw Moor, in the Manor of Lanchester, containing Six Hundred Acres.

thereof within the Parish of *Saint Oswald's*, and the other Part thereof in the Chapelry of *Ash*, within the Parish of *Lanchester*, in the County aforesaid; and the Boundaries, between the said Parish of *Saint Oswald's* and Chapelry of *Ash*, are well known, and called, by the Names of the *Scotch Dike* and *Holywell Syke*; which said *Scotch Dike* and *Holywell Syke* run nearly North and South, and divide the said Moor into two Parts, and such Part of the said Moor, or Common, as lies on, or towards, the West Side of the said *Scotch Dike* and *Holywell Syke*, is in the Chapelry of *Ash*; and the rest of the said Moor, or Common, which lies on, or towards, the East Side of the said *Scotch Dike* and *Holywell Syke*, is within the said Parish of *Saint Oswald's*, and the said Moor, or Common, at

Part in the Parish of *Saint Oswald's*, and Part in the Chapelry of *Ash*. Separated by known Boundaries.

A

present,

present, yields little Profit, but, by being inclosed, the same would be capable of Improvement.

The Bishop of
Durham, Lord
of the Manor.

Persons intitled
to right of Com-
mon.

Willing to di-
vide.

Commissioners
impowered to di-
vide.

And whereas the Right Reverend Father in God, *Richard* Lord Bishop of *Durham*, in Right of his Church and See of *Durham*, is Lord of the said Manor of *Lanchester*, and as such is seised of, or intitled to, the Soil of the said Moor, or Common, as Parcel of, or belonging to, the said Manor.

And whereas the Right Honourable *Anthony* Earl of *Shaftsbury*, the Reverend the Dean and Chapter of *Durham*, of the Cathedral Church of *Christ*, and blessed *Mary* the Virgin, in right of their Church, Sir *Edward Smythe*, Baronet, *Anthony Hall*, Esquire, *Christopher Wardell*, *Matthew Hobson*, Gentlemen, and several other Persons, or their Trustees, Lessees, Farmers or Tenants, in Respect of, or as appendant, appurtenant, or belonging to, their Messuages, Lands, Tenements, or Hereditaments, within, near, or adjoining to the said Manor, are intitled to Right of Common, in, and upon, the said *Middlewood*, or *Ushaw Moor*, or Common, and are willing and desirous that the said Moor, or Common, with the Consent of the said Lord of the said Manor, should be divided and allotted by Commissioners, in that behalf to be appointed, amongst the several Persons intitled to Right of Common thereon respectively, in Regard the same will be a manifest Advantage to all the Parties interested therein, and tend not only to the Improvement of their respective Estates, but also be of public Utility. But, as the said Division and Inclosure cannot be effectually completed and established, to answer the Intention of the Parties interested in the same, without the Aid of Parliament,

May it please your MAJESTY,

That it may be Enacted, And be it Enacted, by the King's most excellent Majesty, by, and with, the Advice, and Consent, of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Moor, or Common, shall, on, or before, the first Day of *August* One Thousand Seven Hundred and Sixty-three, be set out, divided, and allotted, by *John Dobbison* of *Witton-Castle*, in the said County of *Durham*, Gentleman, *Michael Robinson* of *South-Street*, in or near the City of *Durham*, Gentleman, and *Thomas Forster* of the City of *Durham*, Surveyor of Land, Commissioners appointed by this Act, (and who are hereby appointed Commissioners accordingly) and their Successors, amongst the several Persons intitled to Right of Common on the said Moor, in the Manner, and subject to the Rules, Orders, and Directions, in, and by, this Act ordered, directed, and appointed.

And

And, for the more just and regular Division and Distribution of the said Moor, or Common, so to be divided and inclosed, and for the better ascertaining the same, Be it further Enacted, by the Authority aforesaid, That a Survey shall be made of the said Moor, or Common, sometime before the first Day of *August* One Thousand Seven Hundred and Sixty-two, and that on, or before, the said first Day of *August* One Thousand Seven Hundred and Sixty-three, the said Moor, or Common, shall, by the said Commissioners, be set out, marked, and ascertained, by proper Stakes, Meets, or Landmarks, and shall be divided and allotted unto, and amongst, the several Persons having a Right of Common thereon, in the Proportions following; that is to say, As to such Persons as are intitled to Land only, or to Lands and House, or Houses, usually farmed or occupied therewith as a Farm-House, or Farm Houses, Then in Proportion to the whole of the clear Yearly Rent or Value of every such Farm, consisting of Land only, or Land and Farm House, thereunto belonging, and constituting one Farm; And as to such Persons as are intitled to a House or Houses, Cottage or Cottages, Mill or Mills, without any Lands thereto belonging, Then in Proportion to one half of the clear yearly Rent or Value of such House or Houses, Cottage or Cottages, Mill or Mills respectively; And as to such Persons as are intitled both to Land and a Mill, or to Land and an House or Houses, Cottage, or Cottages, now farmed, held, or occupied therewith, but such House or Houses, Cottage or Cottages, have or hath, been heretofore, or usually, held, or occupied, separately and distinctly from such Land at separate or distinct Rents, or are, or is not, taken or deemed to be a Farm House, or Farm Houses, Then in Proportion to the whole of the clear yearly Rent or Value of such Land, and in Proportion to the Moiety of the clear yearly Rent or Value of such Mill, or House or Houses, Cottage or Cottages, respectively, as the same were worth to be lett, whether the same were in the Hands of the Owners thereof respectively, or lett to a Tenant or Tenants, for the Year, beginning the twelfth Day of May One Thousand Seven Hundred and Sixty, such Value to be fixed and ascertained by the said Commissioners.

Common to be surveyed before the first of August 1762.

And divided before the first of August 1763.

Amongst Persons having Right of Common.

In Proportion to the clear yearly Value of their Estates.

As worth to be let on the 12th of May 1760.

Value to be fixed by Commissioners.

And for preventing all unnecessary Delays and Expences in the intended Division, and for the ascertaining the Lands and Tenements intitled to Right of Common on the said Moor

Persons intitled to Right of Common to give in an Account of their Estates.

or

At the first
Meeting.

Distinguishing the
Tenures.

Allotments to be
Subject to a year-
ly Rent of Six-
pence per Acre
to the Bishop for
ever.

Clear of Deduc-
tion.

Payable half
yearly at Pente-
cost and on the
22d of Novem-
ber.
First Payment at
Pentecost 1764.

On Non-pay-
ment for forty
Days; Bishop to
have Power of
Entry, Distress
and Sale.
Lands not being
Copyhold.

or Common, and the distinguishing the Natures and Tenures of such several Premises, **It is hereby further Enacted**, by the Authority aforesaid, That all and every Person and Persons, having, or claiming to have, any Right of Common in, and upon, the said Moor, or Common, by themselves, their Agents or Tenants, respectively, shall, and they are hereby required, at the first Meeting of the said Commissioners, to put this Act in Execution, to give, and deliver in Writing, to the said Commissioners, then and there present, a full and true Account and Description of the respective Lands and Tenements, for, and in respect of, which such Right of Common is claimed as aforesaid, distinguishing the several Natures and Tenures of the same.

And be it Enacted, by the Authority aforesaid, That there shall be issuing, and payable forth, and out of, the Lands and Grounds to be divided and allotted, by Virtue of this Act, unto the Lord Bishop of *Durham*, and his Successors, Bishops of *Durham*, for the Time being, for ever, such yearly and other Rents and Payments as are herein after mentioned; that is to say, the yearly Rent of Six-pence for every Acre, and so in Proportion for any greater or lesser Quantity than one Acre of the said Moor, or Common, so to be allotted, and to be payable, and paid without any Deduction, for, or on Account of, any Taxes, Assessments, or Impositions whatsoever, Parliamentary or otherwise, by the Proprietors, Owners, or Occupiers, for the Time being, of the several Lands and Grounds so to be divided and allotted, as aforesaid, at the Feast of Pentecost, and on the Twenty-second Day of *November*, in every Year, for ever, by equal half yearly Payments, the first Payment thereof to be made at the Feast of Pentecost, which will be in the Year of Our Lord One Thousand Seven Hundred and Sixty-four.

And be it further Enacted, by the Authority aforesaid, That in Case the said yearly Rent of Six-pence an Acre, herein charged upon, and directed to issue out of, the Lands and Grounds to be allotted in Respect of any Lands or Tenements (not being Copyhold) or any Part of such yearly Rent respectively, shall be behind and unpaid by the Space of forty Days next after either of the Feasts or Days so appointed for Payment thereof as aforesaid, Then, and in such Case, from Time to Time, and at all Times, as often as it shall so happen, it shall, and may, be lawful to, and for, the said Lord Bishop, and his Successors, or his or their Agents, Officers,

Officers, or Bailiffs, on his or their Behalfe, to enter into, and upon, and to take and distrain the Goods, Chattels, and Cattle, found in, or upon, all and every, or any, the Allotments of the Person or Persons, whose Rent shall be so in Arrear as aforesaid, and to sell and dispose of the Distresses thereupon to be taken, until thereby or therewith, or otherwise, all Arrears of the said yearly Rent, which, before or during the Time of such Entry or Possession, shall be, accrue, or become due, together with all Costs, Charges, Damages and Expences, attending such Distress, and all Damages to be sustained by Reason of the Non-Payment thereof, be fully paid and satisfied.

And it is hereby further enacted, That the said Bishop of *Durham*, and his Successors, shall have such and the same Remedies and Powers for recovering the Rents and Arrears of Rent, charged by this Act, upon the Lands and Grounds so to be allotted, in respect of Copyhold, or Customary Lands and Tenements respectively, as the said Bishop, or any of his Predecessors, respectively had, or could, or might, have, enjoy, or be intitled to, for recovering the Rents and Arrears of Rent, now charged upon, or issuing out of, the said Copyhold, or Customary Lands and Tenements respectively, before the passing this Act.

With like Remedies for recovering the Rent for Allotments in Right of Copyhold Lands.

As he now has for Rents of ancient Copyholds.

And it is hereby further enacted, That all such Lands and Grounds as shall, by Virtue of this Act, be allotted to any Person or Persons, shall be vested in, and held by, such Person or Persons respectively, in the same Manner, and by the same Tenure, as the respective Lands, Tenements, or Hereditaments, (save such as are Copyhold) in Right of, or for, which the said Lotts or Parcels of Ground shall be so set out, or allotted, are holden respectively, subject nevertheless to such annual Rent and Rents, and such Powers and Remedies for the having and obtaining the same, as are herein provided in that Behalf.

Allotments to be of the same Tenure as the Lands, &c. for which they are given.

Save Copyholds.

And be it further enacted, That all such Lands and Grounds as shall be allotted to any Person or Persons, for, or in respect of, any Copyhold or Customary Lands or Tenements, held of the said Manor of *Lanchester*, shall be deemed, and taken to be Copyhold, or Customary Lands, Parcel of the said Manor, and be annexed to, and held as Part of, the ancient Copyhold, or Customary Tenements, for which they shall be so allotted; and shall be added to, and from Time to Time, pass and be surrendered, and held, in and by, such and the like Surrender and Surrenders, Admittance and Admittances, by which such ancient Copyhold or Customary Premises are, or have been,

Allotments in Respect of Copyholds, to be held of the same Manor, by the same Surrenders and Admittances, and subject to the same Customs as said ancient Copyholds.

Demiseable in like Manner.

And to pay a fine of Six-pence an Acre on the Death or Alienation of Copyholders.

Over and above the old Fine, and the new Rent of Six-pence per Acre.

Commissioners not to give undue Preference.

But to regard Quantity and Quality. Each Person share to be as near his old Estate as convenient.

In one Plot where all of the same Tenure. If different Tenures in one Plot for each Tenure.

Commissioners to set out a Common Quarry, Watering Places, and High Ways.

Private Ways, Water Courses, &c.

passed, held, or surrendered, and subject to the same Fees only, for the said new Surrenders, Admittances, and Copies of the same as the said ancient Copyhold Tenements are now subject to, and that such Allotments shall be demiseable together, or separately, and in such Manner, and subject to such Suit of Court, Duties, Services and Customs, as the same ancient Copyhold or Customary Tenements are now held, enjoyed, demiseable, or subject to respectively, and shall be also subject to, and charged with, the Payment to the said Lord of the said Manor, for the Time being of a Fine of Six-pence per Acre, for every Acre of such Allotments, upon every Admission upon the Death or Alienation of each such Copyhold or Customary Tenant thereof, over and besides the Fines now usually paid in such Cases for the said several ancient Copyhold Tenements, and over and besides the said new yearly Rent of Six-pence an Acre.

Provided always, that nothing herein contained, shall extend, or be construed to extend, to empower the said Commissioners, to give any undue Preference to any of the Parties interested in the said intended Division, but that proper Regard shall be had therein, as well to Quality as Quantity. And that the Share of each Person shall be set out, as near to his ancient inclosed Lands and Tenements, for which the same shall be allotted, as can conveniently be done, and also in one Plot, where his said ancient Tenements are all of the same Tenure, and where they are of different Tenures, then a particular Allotment, in a distinct Plot, shall be set out for each particular Tenure, and each such Allotment, shall be properly described and distinguished, and for what Premises, and of what Tenure respectively, the same is so set out and allotted.

And it is hereby Enacted, That the said Commissioners shall, and may, set out, ascertain and appoint a Place for a common Quarry, common watering Places for Cattle, and proper publick High Ways and Roads in, upon, over, and through, the said Moor, or Common intended to be divided, which shall not be less than forty Feet at least in Breadth between the Ditches, with the Assize and Breadth thereof; and also private Ways, Roads and Passages, Sewers, Drains, and Water Courses, in, over, and through the Grounds so to be inclosed, for the Benefit and Use of the Proprietors to and from the Lots and Parcels of Land to be assigned and set out to them respectively, and order, direct, and appoint, the said publick and private Ways, Roads, Passages, Sewers, Drains, and Water Courses to be made, maintained, and kept in Repair by such Person

Person or Persons, Owners or Occupiers of Lands and Tenements interested in the said Division, and in such Proportions and Shares, and in such Manner and Form, and by such Ways and Means, as to the said Commissioners shall seem proper and convenient.

And for the preventing of all Differences and Disputes relating to the said Division and Inclosure, It is hereby further enacted, by the Authority aforesaid, that after the said Commissioners shall have compleated and finished the said Division, pursuant to the Directions of this Act, they the said Commissioners shall form and draw up, and cause to be fairly In-

grossed upon Parchment, and then duly executed under their Hands and Seals, an Award or Instrument thereof, which shall express, specify, and contain the Quantity (in Statute Measure) of the Acres, Roods, and Perches, contained in every several and respective Allotment, with a Description of the Situation, Buttals and Boundaries of the same, distinguishing the several Tenures thereof as aforesaid; and also the Rent to be paid unto the said Lord Bishop, for, and in respect of, every such Allotment, with Orders and Directions for hedging, fencing, and ditching thereof, and making, keeping, and maintaining such Hedges, Fences and Ditches, and for making, laying out, and repairing public and private Roads, Ways, Passages, Drains, Sewers, and Water Courses, in, over, and through, the said Moor, or Common, and Allotments; and with such other Rules, Orders, Regulations, and Determinations, touching the said Division, as to the said Commissioners shall seem proper and necessary to be inserted therein. To which said Award shall be annexed the said Survey herein before directed to be taken of the said Common, signed by the said Commissioners, whereon the said several Allotments, public and private Roads, Ways, Passages, Sewers, and Water Courses, and other Matters and Things proper to be described thereon shall be fairly set off, marked and expressed. And that the said Award and Survey to be annexed thereto, shall be deposited and filed in the Office of the Auditor of the Exchequer of the said Bishop of *Durham*, there to remain and be inspected by any Person, or Persons, whomsoever, from Time to Time, at all reasonable Times for ever paying the Sum of One Shilling and no more, to the said Auditor or his Deputy for every such Inspection. And the said Award shall be also inrolled by the said Auditor, or his Deputy, who shall be intitled to the Sum of Ten Shillings and no more, for every Skin of Parchment, whereof the said Award shall consist, for the Inrolling the said Award; and that the said Award and Plan annexed

Commissioners to make an Award.

Setting forth the Quantity of each Allotment.

With Order for hedging, &c. Making Highways, &c.

Survey to be annexed to the Award.

To be filed, and the Award inrolled in the Bishop's Auditors Office.

Ten Shillings a Skin for inrolling.

The Award or Inrolment, or a Copy of any Part of either to be Evidence.

nexed thereto, or the Inrolment of the said Award, or a true Copy upon Paper, of such Award or Inrolment, or of any Part thereof, under the Hand of the said Auditor or his Deputy, shall be allowed as Evidence in all Courts of Law and Equity. And the said Auditor or his Deputy is hereby required to make and deliver to any Person requesting the same, a true Copy upon Paper as aforesaid, of the said Award or Inrolment, or any Part thereof, under his Hand, being paid for such Copy after the rate of Four-pence a Sheet, besides the Stamp Duty, accounting Seventy two Words to each Sheet.

After executing and filing the Award, all Right of Common to cease.

The Parties to accept their Allotments within two Months.

and inclose them within twelve Months.

And on refusal to be excluded all Benefit from the said Division,

And be it further Enacted, That immediately after finishing the said Division, and the Execution, and depositing of the said Award and Survey as aforesaid, all Right of Common upon the said Moor or Common, so divided, shall cease and be extinguished; And all, and every Person, or Persons, intitled to any of the said Allotments, shall, and they are hereby required to accept his, her, and their respective Allotments, within the Space of Two Months next, after the depositing of the said Award and Survey, in the said Auditors Office as aforesaid; And also shall within Twelve Months next, after such depositing of the said Award, at his, her, or their Charges respectively, Inclose, Hedge, Ditch and Fence, his, her, or their several Allotments, in such Manner and Form as shall be directed, ordered, and appointed, in, and by, the Award aforesaid. and in Case any Person, or Persons, shall neglect or refuse to accept, and inclose and fence his, her, or their respective Allotment, within the several Times before mentioned, such Person or Persons, so neglecting or refusing, shall be totally debarred and excluded from having any Benefit or Advantage by this Act, and also from any Estate or Interest, or Right of Common whatsoever, of, in, or to the Lands or Grounds so allotted to any other Person or Persons by the said Award.

Liberty for seven Years to set up Gates to keep out Sheep and Cattle.

And it is hereby further Enacted, That the several Proprietors of the said new Inclosures intended to be made pursuant to this Act, shall have full Liberty for the Term of seven Years, from the Time of the Execution, and depositing of the said Award and Survey as aforesaid, to erect or set up any Gate or Gates, in or across any Part of the said Roads, against his, her, or their own Land, for keeping out Sheep and Cattle, and to prevent their destroying any Banks, Woods, Plants, Quicksets and Fences, which shall be made or planted, for inclosing or fencing any Part or Parcel of the said Moor or Common, intended by this Act to be inclosed; and that

that the said Proprietors, their Farmers, or Tenants, or any of them, shall not graze, keep, or put any Sheep, or Goats, on their new Inclosures for seven Years, after the said new Inclosures shall be made.

Proprietors not to graze Sheep or Goats on new Inclosures for Seven Years.

Provided always, that nothing in this Act contained, shall extend, or be construed, or adjudged to revoke, alter, or make void any Settlement, Deed, Will, or Lease whatsoever, or to prejudice any Person or Persons, having Right, or Claim, of Dower, Jointure, Rent, Service, Debt, Charge, or Incumbrance, of, into, out of, or affecting, any of the Lands, or Tenements, intituled to Right of Common, on the said Moor, or Common, intended to be divided, or any of the Lands, and Grounds to be inclosed, or any Part or Parcel thereof; but that the said ancient Lands and Tenements, and also the Lands and Grounds, to be allotted on the said Division to the several Proprietors respectively, shall immediately after such Allotment be, remain, continue, and endure, and be held and enjoyed; and the several Persons, to whom the same shall be assigned and allotted, shall, from thenceforth, stand, and be seised, and possessed thereof respectively, subject and liable, to such and the same Wills, Limitations, Estates, Conditions, Settlements, Provisoes, Remainders, Reversions, Leases, Debts, Charges, and Incumbrances, as the several Messuages, Lands, and Tenements, in respect to which such Allotments were made, were and stood severally subject and liable unto, at the Time of making and executing the said Award.

Not to revoke any Deeds, Wills, or Leases, or prejudice Dower, Debts, &c.

Provided also, That the Guardians, Husbands, Trustees or Attorneys, of any Person or Persons, being Minors, under Coverture, beyond the Seas, or otherwise incapable by Law to accept such Allotments, may, and they are hereby enabled, and required, to accept thereof, for the Use of such Person or Persons, so incapacitated as aforesaid; and also that any Person or Persons, intituled to such Allotment, as Tenant or Tenants for Life or Lives, or Term of Years, or Possessor of the Rents, and Profits of any Estate for Life or Lives, shall be, and is, and are, hereby respectively enabled to take and accept such Allotment. And also, that any Person or Persons, intituled to such Allotment in Reversion, Remainder, or Expectancy, upon any precedent particular Estate, upon Neglect, or Refusal, of any Tenant or Tenants in Possession, or any Person intituled to such precedent particular Estate, shall be, and is and are, hereby respectively enabled to take and accept of such Allotment, in lieu, and instead of any such Tenant or Person, so intituled, and neglecting or refusing as aforesaid; and every such Acceptance respectively

Guardians &c. of Minors, &c. empowered to accept their Allotments.

shall be, and is hereby declared to be, as valid and effectual as if the Person or Persons, to whom the same shall be made respectively, was, or were capable of acting for themselves, or had not neglected, or refused as aforesaid, any thing herein contained to the contrary notwithstanding.

Guardians, &c.
refusing to accept
not to exclude
Minors, &c.

Provided also, that the Non-Claim, or Non-Acceptance of any Guardian, Husband, Trustee, Committee, or Attorney shall not exclude or prejudice the Claim or Acceptance of any Infant, Lunatic, Feme Covert, or other Person, under such Disability, or Incapacity as aforesaid, who shall claim, or accept, his, her, or their Share or Allotment, within one Year next after such Disability or Incapacity shall be removed, or of any Person or Persons, intitled as Heir, or in Remainder after the Death of any Person dying under such Disability or Incapacity, who shall so claim or accept within one Year thereafter his, her, or their Right, Title, or Interest, shall have descended, vested or accrued.

Not to prejudice
or lessen the Bi-
shop's Right to
Mines, Quarries,
Royalties, &c.

And be it further enacted, by the Authority aforesaid, That nothing in this Act contained shall be construed to defeat, lessen, or prejudice, the Right, Title, and Interest of the Lord Bishop of *Durham*, Lord of the said Manor of *Lanchester*, or his Successors, or any of them, of, in, and to, the Seignior, and Royalties incident and belonging to the said Manor; but that the Lord thereof, for the Time being, shall, and may, from Time to Time, and at all Times for ever, hereafter hold, and enjoy all Rents, Services, Courts, Royalties, Perquisites and Profits of Courts, to the said Manor, or the Lord thereof, for the Time being, incident, belonging, or appertaining (other than, and except such, common Right as could, or might be claimed by him as Owner of the Soil, and Inheritance of the said Moor or Common), in as full, ample, and beneficial Manner, to all Intents and Purposes, as he could or might have held and enjoyed the same, if this Act had not been made.

The Bishop to
work Mines and
Quarries, lay
Waggon Ways,
erect Engines &c.
without paying
any Damages.

And also, that the said Bishop of *Durham*, his Successors, and Assigns shall, and may, from Time to Time and at all Times hereafter, have, hold, and enjoy all Mines, and Quarries of what Nature or Kind soever, within, or under the said Moor, or Common intended to be divided and inclosed, as aforesaid, together with all convenient and necessary Ways, and Wayleaves, and Liberty of Laying, Making and Repairing Waggon Ways, and other Ways in, over, and along the same, or any Part thereof, and of searching for, winning and working the said Mines and Quarries, and leading and carrying away

away the Coals, Lead, Minerals, Stones and other Things to be gotten thereout, and making Drifts, Levels, Water Courses, erecting and using Fire Engines, and other Engines, Pitt-rooms, and other usual Liberties, as fully and freely as he, or they might, or could have had and enjoyed the same, in case this Act had not been made, and that without making or paying any Satisfaction for so doing.

And Whereas great Inconveniencies may happen and Damage be done to particular Persons by reason of searching for, winning, and working, the said Mines and Quarries within, and under their respective Allotments by the said Bishop, his Successors and Assigns, without making or paying any Satisfaction for so doing. For remedy whereof it is hereby enacted, that when, and so often as, any Person, or Persons, shall suffer any Damage in his, her, or their respective Allotment or Allotments, by the searching for, winning, or working, of the Mines and Quarries therein, or the making, laying, and repairing, Waggon-Ways, and other Ways, or by the leading and carrying away the Coals, Lead, Minerals, Stones, or other things, to be gotten thereout, or making Drifts, Levels, or Water-Courses, or erecting or using Fire-Engines, or other Engines, Pitt-room, Heap-room, or other the Liberties and Powers hereby given and reserved to, and for, the said Lord Bishop, his Successors, or Assigns, upon Complaint thereof, by such Person or Persons, so to be damnified as aforesaid, to one or more Justice, or Justices, of the Peace, in, and for, the said County of *Durham* (notice in Writing of such Complaint signed by the Person, or Persons, so damnified, being fixed upon the most usual Doors of the Parish Church of *Saint Oswald's*, and Chapel at *Ash*, in the said County respectively six Days at least, one of them being a Sunday, preceeding such Complaint) such Justice, or Justices, is, and are, hereby impowered, and required, to examine, and enquire into, such Complaint, or Complaints, in a summary Way, either by Examination of Witnesses upon Oath, or, being of the People called Quakers, on their solemn Affirmation (which Oath, or Affirmation, the said Justice, or Justices, is, and are, hereby required, and impowered, to administer) or by such Evidence, or Proof, or his, or their own View or Views, or other Ways and Means as to him, or them, shall seem requisite and expedient in that Behalf: And, finally, to assess, settle, and determine the Damages sustained by the Person or Persons, so complaining as aforesaid; which Damages, together with reasonable Charges, on Account of making and prosecuting such Complaint, to be also fixed and settled by the said Justice or Justices, shall

Where particular Persons are damnified in their Allotments by working Mines, &c. the Owners of all the Allotments, to contribute towards reimbursing the Damages.

On Complaint to a Justice of the Peace.

Who is to settle such Damages.

And fix the Share of each Person towards the same.

On Refusal of
Payment, Dam-
ages to be levied
by Warrant from
the Justice.

shall be borne and paid by the Owners or Occupiers of all the several Allotments, including that or those of the Person or Persons so damnified, and making Complaint, according to the respective yearly Rents or Values of the same, in such Shares, Proportions and Manner, as the said Justice or Justices shall direct and appoint: And in case any Person or Persons, chargeable with, or contributable to, the Payment of such Damages as aforesaid, shall neglect or refuse to pay his, her, or their said Shares thereof, within a Time to be limited, by such Justice or Justices, to the said Person or Persons complaining, then the said Justice or Justices, by Warrant, under his or their Hand and Seal, or Hands and Seals, shall, and he, or they, is, and are, hereby required to cause the same to be levied by Distress and Sale of the Goods, and Chattles of such Person or Persons, so neglecting or refusing to pay the same as aforesaid, rendering the Overplus, (if any be) after deducting the reasonable Charges of such Warrant, Distress and Sale to the Owner or Owners of such Goods and Chattles, upon Demand.

The Owners of
every Allotment
may work Stones
and Clay therein
for their own
Use.

Provided always, and it is hereby enacted, That it shall, and may be lawful to, and for, the Owners and Occupiers of the said Allotments, at all Times hereafter, to win, and get, Stones, and Clay, for Bricks or Tiles, or any other Purpose for their own Use, within their respective Allotments, and also to get Stones, within the said common Quarry, to be set out as before mentioned.

Commissioners
dying, or refus-
ing to Act, new
ones to be chosen.

And be it further enacted, That when any Commissioner or Commissioners, appointed by this Act, or to be elected, as herein after is mentioned, shall die or refuse to act, it shall, and may, be lawful for the surviving Commissioner or Commissioners, from Time to Time, within forty Days next after such Death or refusal to Act, by an Instrument in Writing under the Hand and Seal, or Hands and Seals, of such surviving Commissioner or Commissioners, to elect and appoint one or more Person, or Persons, not interested in the said Inclosure or Division, to be a Commissioner or Commissioners, instead of such Commissioner or Commissioners, so dying, or refusing to Act as aforesaid: And every such new Commissioner or Commissioners shall have the like, and the same Powers and Authorities, to put in Execution this Act, as if he, or they, had been named and appointed herein, which said Instrument shall, within fourteen Days after such Election, be filed, inrolled, paid for, and recorded, in the said Office of Auditor, and the same, or the Inrolment, or a Copy thereof, shall be admitted

admitted as Evidence, in all Courts whatsoever, in like Manner as herein before is directed, in respect to the said Award of the said Commissioners.

And, for the preventing all unnecessary Obstructions and Delays, in the said intended Division, and determining all Claims, Differences, and Disputes, that may arise concerning the Boundaries of the said Common or any Part thereof, or that may be made by any Person or Persons, claiming Right of Common thereon, or touching the Lands and Tenements, for which such Right of Common is claimed, or in the distinguishing the Natures and Tenures thereof, or of, or concerning, or relating to, the Shares or Allotments, to be set out by the said Commissioners to any Person or Persons respectively, or any other Matter or Thing, to be done by the said Commissioners by Virtue or in Pursuance of this Act: **Be it enacted**, by the Authority aforesaid, That all, and every Person or Persons having or making any Claims, which may affect the Boundaries of the said Common, or claiming any right of Common thereon, shall, and they are hereby required respectively, to give and deliver in Writing, to the said Commissioners, at their first Meeting, to be held in Pursuance of this Act, an Account in Writing of such his, her, or their respective Claims, and of the Lands and Tenements, in respect of which such Claims shall be made, distinguishing the respective Natures and Tenures of the same: And if such Claims and Accounts, or any of them, shall be then and there, or at the next subsequent Meeting of the said Commissioners, objected to, by the said Lord of the said Manor of *Lancaster*, or the other Persons, having Right of Common on the said *Middlewood* or *Ushaw Moor*, or any of them, or his or their Agent, Solicitor, or Attorney; Or, if any Disputes or Difficulties shall happen touching the ascertaining the Lands and Tenements, in respect of which such Right of Common is claimed, or distinguishing the several Tenures of the same, Then, and in any of the said Cases, the said Commissioners shall, and they are hereby required to, refer such Claims, Objections, Disputes, Matters and Things, before mentioned, unto *Thomas Rudd*, and *Thomas Gyll*, of the City of *Durham*, Esquires, and *Christopher Fawcett*, of the Town and County of *Newcastle upon Tyne*, Esquire, who are hereby nominated and appointed Arbitrators, finally to hear and determine all such Claims, Objections, and Disputes. And all, and every Person and Persons, who are, or shall be, aggrieved in any wise, concerning or relating to his, her, or their Allotment or Allotments, or in any other Matter or

All Claims affecting the Boundaries, or of Right of Common, to be given in at the first Meeting.

And if objected to, to be referred to Arbitrators.

And also Differences touching the ascertaining of Lands or distinguishing the Tenures.

Names of Arbitrators.

Persons aggrieved by the Division, to give in their Objections in Writing at a Meeting to be appointed for that Purpose.

Thing whatsoever, done by the said Commissioners, touching the said Division, shall, and they are hereby impowered and required respectively, to give, and deliver in Writing, an Account of such his, her, or their, Objection or Complaint, to the said Commissioners, who shall be present at a Meeting, which they are hereby directed and ordered to hold, after they shall have marked and set out upon the said Common, the said several Allotments, Highways, common Quarry, common Watering-Places, private Ways, and other Matters and Things, herein before directed, and after they shall have prepared a Draught of their said Award, but before the Ingrossing and Execution of the same, (of which Meeting publick Notice shall be given, as hereinafter is mentioned) to the End that the said Draught of the said Award, may be then read over to the Persons interested in the said Division, or such of them as shall think proper to attend there: And in Case such Objection or Complaint cannot be accommodated and settled by the said Commissioners at the said Meeting, and the Person or Persons making the same shall persist therein and desire it, Then and in such Case, the said Commissioners, present at such Meeting, shall, and they are hereby required to, refer such Objection or Complaint unto the said Arbitrators, who are likewise hereby impowered finally to hear and determine the same.

Where a Draught
of the Award
shall be read.

And the Objec-
tions, if desired,
referred to the
said Arbitrators.

Who are to
make their
Award in three
Months.

To be filed in
the said Auditor's
Office and In-
rolled.

And be it further Enacted, that the said Arbitrators to whom such Claims and Objections, Grievances and Complaints shall be respectively referred as aforesaid, or any two of them, shall, with all convenient Speed after such Reference, proceed to hear and determine the same, by their own View, Examination of Witnesses on Oath, or being Quakers on their solemn Affirmation (to be severally administered by any one or more of the said Arbitrators) or by such Evidence, Proof, Ways, and Means as to them shall seem expedient; And the said Arbitrators, or any two of them, shall form, and draw up, their Award in Writing, under the Hands and Seals of them or any two of them, and cause the same to be deposited in the said Auditor's Office, within three Calendar Months next after such Reference to them as aforesaid; and such Award shall be conclusive and final to all Persons whatsoever; and shall also, within two Calendar Months after the depositing thereof, be paid for, and inrolled, in the said Office of Auditor; and the same, or the Inrollment thereof, or a Copy of the said Award or Inrollment, or any Part of the same, in like Manner as herein before directed in regard to the said Award of the said Commissioners, shall be allowed as Evidence in all Courts whatsoever as aforesaid.

And

And be it further Enacted, that the said Arbitrators, to whom such References shall be made as aforesaid, or any one or more of them, shall and may, at the Request of any of the Parties interested, by Writing under his or their Hand or Hands, summon such Witness or Witnesses, as shall be thought necessary, to appear and give Evidence before them, at such Time and Place as shall therein be appointed; and if such Witness or Witnesses, being duly served with such Summons, and having been paid, or had tendered, a Sum of Money sufficient to bear his, her, or their Charges of Attendance, shall neglect, or refuse, to appear and give Evidence, the said Arbitrators, or any two of them, on due Proof thereof made, are hereby impowered, and required, by Warrant under their Hands and Seals, to levy by Distress and Sale of the Goods and Chattles of every Person so neglecting or refusing to appear and give Evidence, any Sum of Money not exceeding Five Pounds, nor less than Forty Shillings to the Use of the Person or Persons, who caused such Witness to be summoned as aforesaid, rendring the Overplus (if any) upon Demand, after deducting the reasonable Charges of such Summons Distress and Sale to the Person and Persons respectively, whose Goods and Chattles shall be so distrained or seized as aforesaid.

Arbitrators may
summon Wit-
nesses.

Penalty on their
not appearing.

Provided always, and be it also Enacted, That the said Arbitrators to whom such References shall be made as aforesaid, or any two of them, shall, and they are hereby impowered and required to assess such Costs and Charges as shall be reasonable, for the Use and Benefit of the Party or Parties, in whose favour their Award shall be, upon, and against, the Person or Persons, whose Claims, Complaints, or Objections shall be disallowed; and by Warrant under the Hands and Seals of the said Arbitrators, to levy such Costs and Charges by Distress and Sale of the Goods and Chattles of such last mentioned Person or Persons, rendring the Overplus (if any) after deducting the reasonable Charges and Expences attending such Complaints or Objections, and of such Distress and Sale to the Person or Persons, whose Goods shall be distrained or seized by Virtue of such Warrant.

Arbitrators to as-
sess Costs upon
Persons against
whom they
award.

And be it further Enacted, That when any one or more of the said Arbitrators shall die, or refuse to act, the Commissioners acting under the Authority of this Act shall, and they are hereby required by Writing, or Writings, under their Hands,

Arbitrators dy-
ing, or refusing
to act, new ones
to be appointed
by the Commis-
sioners.

Hands, and Seals, from Time to Time, to elect and appoint one or more fit Person or Persons, being a Barrister or Barristers at Law, in the Place of such Arbitrator or Arbitrators, so dying or refusing to act, who shall, and may, act in the Premises as fully to all Intents and Purposes as if he, or they, had been named and appointed herein; which said Writing or Writings shall, within fourteen Days after such Election, be filed, paid for, and inrolled, in the said Auditor's Office; and the same, or the said Inrolment, or a Copy of either of them, shall be Evidence in all Courts, as aforesaid.

Persons, neglecting to make their Claim at the first Meeting, to be excluded.

And it is hereby further Enacted, That all, and every Person and Persons, neglecting, or refusing, to give and deliver in, such several Accounts and Claims as aforesaid, at the said first Meeting of the said Commissioners, shall be excluded and totally debarred of, and from, all Right and Title in, and to, the said Common, or any Part thereof, and also of, and from, all Benefit and Advantage in, or to, any Share or Allotment upon the said intended Division, And all and every Person and Persons, neglecting to give and deliver in such Account of any Objection or Complaint, as before mentioned, at the Meeting of the said Commissioners for the reading over the Draught of their intended Award as aforesaid, shall not, at any other Time or Times thereafter, be allowed to make or give in such Accounts, but shall from thenceforth be absolutely debarred and excluded of, and from, the same, and be totally bound and concluded in, and by, the Award of the said Commissioners.

Persons, neglecting to give in their Objections at the Meeting for reading the Draught, to be concluded by the Award.

Claims of Right of Common given in at the first Meeting and not objected to, shall be allowed.

And be it further Enacted, That all and every Claim, and Claims, of Right of Common in and upon the said Moor, intended to be divided, which shall be given in at the said first Meeting as aforesaid, and to which no Objections shall be made then, or at the next Meeting, shall be allowed, and the Person or Persons, making such Claims, shall be intitled to have an Allotment or Allotments, according to the clear yearly Rent or Value of the Premises, for, and in respect of which, such Claim or Claims shall be made, such Value to be given in, and ascertained, as herein before directed and appointed.

One Month's Notice to be given of the first Meeting.

And it is hereby further Enacted, That the said Commissioners shall, and they are hereby required to, cause a Notice in Writing to be affixed upon the most usual Doors of the said Parish Church of *Saint Oswald's*, and Chapel at *Ash* and,

and also to be inserted in the *Newcastle News Papers*, of the Time and Place of their first Meeting, to put this Act in Execution, at least one Calendar Month next before such first Meeting; by which said Notice, all Persons having, or pretending to have, any Claims, which may affect the Boundaries of the said Common or having or claiming, Right of Common thereon, shall be required by themselves, their Agents or Tenants respectively, to give and deliver, in Writing, to the said Commissioners present, at such first Meeting, an Account of such their Claims respectively, and also for all Persons claiming such Right of Common, then and there, by themselves, their Agents, or Tenants, to deliver an Account in Writing of the Natures or Tenures of their respective Premises, in respect of which such Right of Common shall be claimed; and it shall be signified also by the said Notice, that all Persons neglecting to deliver in such several Claims and Accounts, at the said first Meeting, shall be excluded and debarred of, and from, all Estate, Right, Title, Claim, or Interest, of, in, or to, the said Common, or any Part thereof, and also all Benefit and Advantage of any Share, or Allotment upon the said Division, by Virtue of, or under, this Act, And that the Claims of all Persons who shall deliver in such Accounts of their Claims of Right of Common as aforesaid, to which no Objection shall be made in Manner as before-mentioned, will be allowed, and the Persons making the same will be intitled to, and have Allotments for, and in respect of the clear yearly Rent or Value of their Premises respectively, (to be fixed and ascertained by the said Commissioners as aforesaid) in Right of which they shall severally Claim such Right of Common as aforesaid, or to that or the like Effect. And the said Commissioners shall, and may, appoint such Time and Place for their next or second Meeting, and so from Time to Time for every subsequent Meeting, as they shall think proper, they causing a Notice in Writing of such second Meeting, to be affixed upon the most usual Doors of the said Church and Chapel, at least fourteen Days before such second Meeting, and also causing a Notice in Writing of every subsequent Meeting to be affixed on the most usual Doors of the said Church and Chapel the *Sunday* next preceeding such Meeting; and when the said Commissioners shall have marked, and set out upon the said Common, the several Allotments, Highways, Common Quarry, Common Watering Places, private Ways, and other Matters and Things necessary to compleat the said Division, they shall, and are hereby required to prepare and form a Draught of their Award, and appoint a Meeting at such Place and Time, as they shall think fit, for the reading over, and settling the said Draught of the said Award, before the same shall be in-

Tenor of Notice.

Notices for subsequent Meetings.

Notice of Meeting to read over the Award.

Tenure of that Notice.

grossed and executed, and the said Commissioners shall cause a Notice in Writing to be affixed upon the said most usual Doors of the said Parish Church and Chapel respectively, and also to be inserted in the said *Newcastle* News Papers, of the Time and Place of the said last mentioned Meeting, at least Ten Days before such Meeting. By which Notice it shall be signified, that they the said Commissioners have prepared a Draught of their intended Award for the Division of the said Common, and that all Persons interested therein, their Agents or Tenants, may (if they think proper) attend at such Meeting, and peruse, and inspect the said Draught of the said Award, and hear the same read over, and be at Liberty to make such Complaints or Objections thereto, as they shall judge necessary, and have the same referred to the said Arbitrators in Manner as aforesaid.

Persons giving false Evidence to be subject to the Pains and Penalties by Law inflicted for Perjury.

And be it further enacted, By the Authority aforesaid, that in case any Person or Persons, upon Examination upon Oath, or solemn Affirmation before the said Arbitrators, in Manner as before-mentioned, shall give false Evidence, such Person or Persons giving such false Evidence before the said Arbitrators, and being duly convicted of such Offence or Offences, shall be, and is, and are hereby declared to be subject and liable to such Pains and Penalties as by any Law now in being, Persons convicted of wilful and corrupt Perjury are subject and liable to.

Charges of the Act, Division, &c. to be paid by the Owners of the several Allotments.

And it is hereby further Enacted, That the Charges and Expences incident to, and attending, the obtaining, procuring, and passing this Act, and of surveying, measuring, dividing and allotting the said Common intended to be inclosed, the setting out, and making of the said publick High-ways, the preparing, making, executing, and inrolling the said Award of the said Commissioners, Instruments of Elections, the Charges and Expences of the said Commissioners, and every other Person and Persons by them employed, in and about the said Division and Execution of this Act, and all other incident Charges and Expences whatsoever, relating to, or any ways concerning, or occasioned by, the said Division and Premises, shall be jointly born and paid by the respective Persons, to whom Allotments of the said Common shall be made respectively, by a Rate or Assessment to be made upon each of them in Proportion, and according to the said clear yearly Values or Rents of his, her, or their Premises and Estates, in Right or Respect of which such said Allotments shall be respectively made, in Manner and Form as aforesaid, by the said Commissioners, and to be payable and paid by them respectively, to such Person or Per-

or

sons, as shall by the said Commissioners be named and appointed in and by the said Rate or Assessment. And in case any Person or Persons shall neglect or refuse to pay his, her, or their Share and Proportion of the said Charges and Expences, to be specified and fixed by the said Rate or Assessment within Six Days after Demand made of the same, Then the said Commissioners shall, and they are hereby empowered and required by Warrant under their Hands and Seals, to cause the same to be levied by Distress and Sale of the Goods and Chattels of the Person or Persons, neglecting or refusing to pay his, her, or their Share or Proportion of such Rate or Assessment, rendering the Overplus (if any) upon Demand to the Owner or Owners of such Goods and Chattles, the reasonable Charges of such Warrant, and in and about such Distress and Sale being first deducted and paid.

provided, That the said Lord Bishop of *Durham*, or his Successors, or the said annual Rents so reserved and made payable to the said Bishop by virtue of this Act, shall not be chargeable with, or contributable to, the said Charges and Expences, or any Part thereof.

The Bishop of
Durham to pay
no Charges what-
ever.

Provided always, and it is hereby further enacted, that nothing in this Act contained shall extend or be construed to, prejudice, lessen, or defeat, the Right, Title, or Interest, of the Rector of the Parish and Parish Church of *Brancepeth*, in the said County of *Durham*, and his Successors in or to any Rectorial, Predial, or mixed Tythes, arising and renewing out of, or payable in Respect of, any Right of Common on the said Moor or Common so intended to be inclosed as aforesaid, appendant or appurtenant to any Lands, Tenements, or Hereditaments, lying and being in the said Parish of *Brancepeth*; but that the said Rector and his Successors shall and may have and receive the same, in as full, ample, and beneficial Manner, to all Intents and Purposes, as if this present Act had not been made.

Not to prejudice
the Right of the
Rector of Brancepeth to Tythes.

Saving always to the King's Most Excellent MAJESTY, his Heirs and Successors, and to all and every other Person and Persons, Bodies Politick and Corporate, his, her, and their Heirs, Successors, Executors, and Administrators (other than the said Lord of the Manor of *Lancaster* aforesaid, and all and every other Person or Persons, Bodies Politick and Corporate, claiming or intitled to, any Common Right, in, over, or upon the said Common, directed to be inclosed as aforesaid, his, her, or their Heirs, Successors, Executors or Administrators

Saving to the
King, &c.

strators respectively, and the Person or Persons, setting up any Claims concerning the said Boundaries of the said Common, and which shall be referred and determined against him or them as aforesaid) all such Right, Title, and Interest, as they, every, or any of them had and enjoyed, of, in, to, or out of the said Common to be inclosed, before the passing of this Act, or could, might, or ought to have had, held or enjoyed, in case this Act had not been made.

A C T

For dividing and inclosing a certain Moor, or Common, called Middlewood Moor, or Ushaw Moor, within the Manor of Lanchester, in the County of Durham.